

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF CATHY J.)	APPEAL NOS. 06-A-2457
NUXOLL and DAVID C. BROWN from the decisions)	AND 06-A-2458
of the Board of Equalization of Valley County for)	FINAL DECISION
tax year 2006.)	AND ORDER

VACANT LAND APPEALS

THESE MATTERS came on for hearing November 15, 2006, in Cascade, Idaho, before Board Member Lyle R. Cobbs. Board Member David E. Kinghorn participated in this decision. Appellants Cathy Nuxoll and David Brown appeared. Assessor Karen Campbell, Chief Deputy Assessor Deedee Gossi and Appraiser June Fullmer appeared for Respondent Valley County. This appeal is taken from a decision of the Valley County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel Nos. RP16N03E225775A and RP16N03E225810A.

The issue on appeal is the market value of two vacant land properties.

The decisions of the Valley County Board of Equalization are reversed.

FINDINGS OF FACT

RP16N03E225775A

The assessed land value is \$64,280. Appellant Nuxoll requests the land value be reduced to \$15,000.

RP16N03E225810A

The assessed land value is \$107,170. Appellants request the land value be reduced to \$30,000.

The subject properties are two adjacent undeveloped lots totaling .688 acres located near Cascade, Idaho.

Appellants argued there was no legal vehicular access to the subject properties and they

should therefore be assessed for lower value. Appellants claimed the only legal route to access subjects is by hiking through an adjacent government-owned parcel. There was a road easement recorded in 1992 across a neighboring property granting access to three nearby parcels. The road ends at the edge of subject properties, however, subjects were not included in the easement. Appellants stated the owner of the easement has repeatedly denied Appellants' use of the road and has also put up a chain barrier to further block access to subjects.

Appellants purchased the subject lots in July 2005 for \$15,000 and \$30,000 respectively. Appellants were aware of the access problem, but decided to purchase the lots with the hope that easements could be worked out with the adjacent owner or through the court system. Appellants consulted two attorneys, one of which, provided an opinion letter stating there was an access issue and based on the facts, the courts may indeed grant an easement for subjects. Appellants indicated legal action may be pursued, but nothing had yet been done. It was estimated that legal fees to bring such action may run in excess of \$10,000. Appellants agreed that the current assessments would be appropriate if there was functional access to subject lots, but in the absence of such access, it was claimed subjects should be assessed at their purchase prices.

Respondent stated the subjects were assessed according to the average sale price of other properties in subject's area. Respondent claimed no knowledge of the access issue at the time of assessment and acknowledged such conditions normally have a negative impact on land value. Respondent also asserted an adjustment could not be made without formal legal documentation or court decision confirming there is no access to subjects. Respondent stated that the easement particulars recorded on the three nearby deeds was not enough.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho is a market value state as defined in Idaho Code § 63-201(10):

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Appellants argued the lack of functional legal access had significantly diminished the value of subject properties.

Respondent acknowledged that such an access issue may impact land value, however, absent definitive legal documentation showing that such issue exists, subjects were assessed properly.

Respondent conceded that had an access issue been established at the time of assessment, lower values would likely have been assessed. Three nearby properties were specifically granted easements to use the road as noted in their recorded deeds. No easements are found in subjects' deeds, thereby indicating the probability that no legal access exists.

In determining the value of property the assessor may and should consider cost, location, actual cash sale value and all other factors, known or available to his knowledge, which affect the value of the property assessed. A proper determination of the market value of taxable property should involve an analysis of multiple factors including the actual cost of the property and its actual sale value. Merris v. Ada County, 100 Idaho 59, 593 P.2d 394 (1979).

While assessments are generally made according to average sale prices for similar property in the area, special consideration should be given in this case due to the probable access issue. As such, the Board finds it was incorrect to assess subject lots based on sales of properties in the area that were not similarly burdened. Accordingly, the decision of the Valley County Board of Equalization is reversed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decisions of the Valley County Board of Equalization concerning the subject parcels be, and the same hereby is reversed, thereby lowering the assessed value of RP16N03E225775A to \$15,000 and RP16N03E225810A to \$30,000.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellants.

DATED this 15th day of March, 2007.